

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LISA RANERI,

Plaintiff,

-against-

JOHN McCAREY, individually, LOU CORDA,
individually, and the COUNTY OF ORANGE,

Defendants.

VERIFIED ANSWER

Case No. 08 CIV. 1107

Hon. Stephen C. Robinson

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The Defendants, above named, by their attorney Sharon Worthy-Spiegl, Esq., Chief Assistant County Attorney to David L. Darwin, County Attorney for the County of Orange, submit this Answer to the Complaint as follows:

1. Deny each and every allegation stated or contained in paragraph “1” of the Complaint and refer this Court to 42 U.S.C. § 1983, Title VII, 42 U.S.C. 2000e, *et. seq.*, as it constitutes the best evidence of the contents contained therein and refer all matters of law to this Court.

2. Admit the allegation and/or statement contained in paragraph “2” to the extent that the County of Orange is in possession of documents purporting to be a Complaint to the Equal Employment Opportunity Commission and a Notice of Right to Sue, and refer this Court to said documents as they constitute the best evidence of the respective contents contained therein, except neither admit nor deny the remaining statements contained in paragraph “2” as they call for a conclusion of law and refer all matters of law to this Court.

3. Deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations stated in paragraph “3,” except admit that upon information and belief, Plaintiff commenced employment with the County of Orange on or about May 20, 1987 and further assumed the title of Tax Map Technician in or about August 2000.

4. Deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations stated in paragraph “4,” except admit to the extent that John McCarey is a male and a resident of Orange County, New York, and has held the position of Director of Real Property Tax Service Agency for Orange County since February 22, 2000.

5. Deny knowledge and information sufficient to form a belief as to the truth or falsity of the allegations stated in paragraph “5,” except admit that Lou Corda is a male and a resident of Newburgh, New York, and at all times relevant, and has been employed as the Deputy Commissioner for the Orange County Department of Personnel since June 16, 2003.

6. Admit the allegations stated in paragraph “6.”

7. Deny the allegations stated or contained in paragraph “7,” except admit that upon information and belief, Glenn Swanson held the position of Tax Map Coordinator from April 16, 2001 through June 30, 2005 and further refer this Court to said letter referred to in paragraph “7” of the Complaint as it constitutes the best evidence of the contents contained therein.

8. Deny each and every allegation stated or contained in paragraphs “8,” “10 (a through d),” “11 (a through e),” “12,” “13,” “17,” and “18.”

9. Deny each allegation contained in paragraph “9,” except states that from time to time within the Department, teams are formed to perform specific functions for a limited period of time based upon workload demands.

10. Deny each and every allegation contained in paragraph “14,” except admit that upon information and belief, Plaintiff took and passed the civil service test for the position of Tax Map Coordinator in or about October 2006.

11. Deny each and every allegation contained in paragraph “15,” except admit that McCarey appointed Breitenfeld to the Tax Map Coordinator position in or about January 2007, and further state that Michael Breitenfeld scored No. 1 on the civil service test for the position of Tax Map Coordinator.

12. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph “16,” except deny the statement that Defendants were informed of the alleged incidents as stated in said paragraph “16.”

13. Defendants repeat and reallege each and every paragraph numbered “1,” through “19,” as if the same were fully set forth herein.

14. Deny each and every allegation stated or contained in paragraph 20,” and refer this Court to Title VII, 42 U.S.C. § 2000 *et. seq.*, as it constitutes the best evidence of the contents contained therein and refer all matters of law to this Court.

15. Defendants repeat and reallege each and every paragraph numbered “1,” through “21,” as if the same were fully set forth herein.

16. Deny each and every allegation stated or contained in paragraph “22,” and refer this Court to Title VII, 42 U.S.C. § 2000 *et. seq.* as it constitutes the best evidence of the contents contained therein and refer all matters of law to this Court.

17. Defendants repeat and reallege each and every paragraph numbered “1,” through “23,” as if the same were fully set forth herein.

18. Deny each and every allegation stated or contained in paragraph “24,” and refer this Court to the Age Discrimination in Employment Act, as it constitutes the best evidence of the contents contained therein and refer all matters of law to this Court.

19. Defendants repeat and reallege each and every paragraph numbered “1,” through “25,” as if the same were fully set forth herein.

20. Deny each and every allegation stated or contained in paragraph “26,” and refer this Court to the Fourteenth Amendment to the United States Constitution, 42 U.S.C. § 1982, as it constitutes the best evidence of the contents contained therein and refer all matters of law to this Court.

21. Defendants repeat and reallege each and every paragraph numbered “1,” through “27,” as if the same were fully set forth herein.

22. Deny each and every allegation stated or contained in paragraph “28,” and refer this Court to Section 296 *et. seq.* of the Executive Law of the State of New York, as it constitutes the best evidence of the contents contained therein and refer all matters of law to this Court.

23. Defendants repeat and reallege each and every paragraph numbered “1,” through “29,” as if the same were fully set forth herein.

24. Deny each and every allegation stated or contained in paragraph “28,” and refer this Court to Section 296 *et. seq.* of the Executive Law of the State of New York, as it constitutes the best evidence of the contents contained therein and refer all matters of law to this Court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

25. Plaintiff has failed to state a cause of action upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

26. Plaintiff’s claims are barred by the applicable statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

27. Plaintiffs' State law claims are barred for failing to timely serve a Notice of Claim pursuant to N.Y.S. General Municipal Law and County Law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

28. Neither Defendant County of Orange nor any County policymaker, including the named Defendants, have taken any adverse action against Plaintiff in violation of the Equal Protection clause of the Fourteenth Amendment as alleged.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

29. Any alleged damages for reduced earnings and/or compensatory damages alleged to have been sustained by Plaintiff are due solely to Plaintiff's own culpable conduct, negligence, actions and/or inactions.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

30. Defendant Lou Corda is entitled to qualified immunity.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

31. Defendant John McCarey is entitled to qualified immunity.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

32. All of the alleged acts of Defendant John McCarey were done in good faith, without malice, recklessness, callousness or indifference.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

33. All of the alleged acts of Defendant Lou Corda were done in good faith, without malice, recklessness, callousness or indifference.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

34. The alleged deprivation of Plaintiff's constitutional rights was not done pursuant to a governmental custom, policy, practice, ordinance, regulation or decision of Defendants.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

35. Plaintiff failed to mitigate damages.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

36. Plaintiff's claims must be dismissed because no tangible employment action was taken against the Plaintiff.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

37. The gender discrimination claims against the County must be dismissed because the County exercised reasonable care to prevent and correct promptly any alleged sexually harassing behavior and the Plaintiff unreasonably failed to take advantage of any preventive or corrective opportunities provided by the County of Orange or to avoid harm otherwise.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

38. Neither gender nor age were substantial motivating factors in any alleged employment action taken by Defendants.

AS AN FOR A FIFTEENTH AFFIRMATIVE DEFENSE

39. Defendants' actions, if any, were motivated by good faith, bona fide employment-related factors.

WHEREFORE, Defendants respectfully request that this matter be dismissed, that the Court grant the Defendants costs and disbursements and for such other and further relief as this Court deems just and proper.

Dated: February 27, 2008

S/
SHARON WORTHY-SPIEGL (SW 7575)
Chief Assistant County Attorney
David L. Darwin
County Attorney for Orange County
Attorney for Defendants
255 Main Street
Goshen, NY 10924
(845) 291-3150

TO: Drita Nicaj, Esq.
Lovett & Gould, LLP
222 Bloomingdale Road
White Plains, NY 10605

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

LISA RANERI,

Plaintiff,

-against-

JOHN McCAREY, individually, LOU CORDA,
individually, and the COUNTY OF ORANGE,

Defendants.

-----X

VERIFICATION

Case No. 08 CIV. 1107

Hon. Stephen C. Robinson

STATE OF NEW YORK:

ss:

COUNTY OF ORANGE :

LOU CORDA, being duly sworn deposes and says:

That I am the Deputy Commissioner for the Orange County Department of Personnel and have held such position since June, 2003 and as such am familiar with the facts and circumstances herein.

That I have read the annexed Verified Answer to the Complaint, know the contents thereof and the same are true to my knowledge except to those matters therein which are stated to be upon information and belief, and as to those matters, I believe them to be true.

S/_____
LOU CORDA

Sworn to before me this
26th day of February, 2008

S/_____
Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

LISA RANERI,

Plaintiff,

-against-

JOHN McCAREY, individually, LOU CORDA,
individually, and the COUNTY OF ORANGE,

Defendants.

-----X

STATE OF NEW YORK:

ss:

COUNTY OF ORANGE :

JOHN McCAREY, being duly sworn deposes and says:

That I, John McCarey, am the Director of the Orange County Real Property Tax Service Agency and have held such position since February 2000, and as such am fully familiar with the facts and circumstances herein.

That I have read the annexed Verified Answer to the Complaint, know the contents thereof and the same are true to my knowledge except to those matters therein which are stated to be upon information and belief, and as to those matters, I believe them to be true.

S/_____
JOHN McCAREY

Sworn to before me this
26th day of February, 2008

S/_____
Notary Public

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Plaintiff,

-against-

JOHN McCAREY, individually, LOU CORDA,
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**CERTIFICATE OF
SERVICE**

Case No. 08 CIV. 1107

Hon. Stephen C. Robinson

I HEREBY CERTIFY that a true copy of the foregoing **VERIFIED ANSWER**, was served by causing a copy thereof to be mailed on February 27, 2008, in a sealed envelope with postage thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

Drita Nicaj, Esq.
Lovett & Gould, LLP
222 Bloomingdale Road
White Plains, NY 10965

S/
SHARON WORTHY-SPIEGL (SW 7575)
Chief Assistant County Attorney
David L. Darwin
County Attorney for Orange County
Attorney for Defendants
255 Main Street
Goshen, NY 10924
(845) 291-3150